THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 24741 of 2005

Dated: 21.11.2005

Between:

Bingi Rangadu @ Jangam Ranganna, S/o. Bingi Narayana,
A.P. Social Welfare, Residential School/Jr. College,
Chinnatekur Village, C. Belgal,
Kurnool District.

..... PETITIONER

AND

The A.P. Social Welfare Residential Educational Institution Society,
Rep. by its Secretary, Hyderabad.

.....RESPONDENT

ORDER:

The petitioner is employed as Junior Assistant-cum-Typist in the respondent-Society. He was placed under suspension through proceedings, dated 06.05.2005, on the ground that he was kept in judicial custody for more than 48 hours in relation to Crime No.35 of 2005 of Kurnool IV-Town police station. The petitioner was accused of committing the crime punishable under Section 354 of the Indian Penal Code, 1860. The petitioner challenges the same mainly on the ground that it was passed at a stage when the prosecution has filed charge sheet, and that the respondent did not apply its mind as to the feasibility or necessity to place the

petitioner under suspension.

Learned counsel for the petitioner submits that before an employee is placed under suspension, the employer is under obligation to apply its mind to the facts of the case and it is only when it becomes inevitable, that suspension can be ordered pending enquiry. He places reliance upon the Judgment of this Court reported in ***P.RAJENDER VS. UNION OF INDIA***.

On the other hand, learned counsel for the respondents submits that the petitioner is accused of a serious and heinous crime and that it is not at all advisable to permit him to function till the criminal case is disposed of. He contends that the delay in passing the impugned order was on account of lack of necessary information.

The only ground on which the petitioner was placed under suspension is that he was in judicial custody for more than 48 hours as an accused in Crime No.35 of 2005. It is true that the crime alleged against the petitioner is very serious and if he is convicted, it must entail in not only punishment, but also removal from service. Charge sheet against the petitioner is said to have been filed on 21.02.2005. The impugned order was passed on 06.05.2005, obviously, because the respondent was not aware of the involvement of the petitioner in the said case.

Though there exists power for the respondent to place the petitioner under suspension, consequent upon the latter being arrested and kept in judicial custody for more than 48 hours, the continuance of the same needs to be reviewed at a different stage. Depending on the nature of the crime alleged against the employee, the employer may consider the feasibility of reinstatement of the employee, if it is not going to have any impact on his services in the institution. These, however, are matters, which need to be considered by the employer and no hard and fast rule can be laid in this regard.

The petitioner is continuing under suspension for about six months. He can submit a representation to the respondent narrating the relevant circumstances. If the respondent finds that the circumstances do not warrant continuance of the petitioner under suspension, it can consider the feasibility of reinstating him. On the other hand, if the conduct of the petitioner, particularly in the context of the nature of allegations alleged against him is such that it is not advisable to reinstate him, necessary order in that regard shall be communicated to the petitioner without further loss of time.

For the foregoing reasons, the writ petition is disposed of leaving it open to the petitioner to submit a representation to the respondent narrating the relevant circumstances, and the respondent, in turn, shall pass an order in the lines indicated above, within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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21.11.2005

Note: Furnish C.C. in three days.

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